

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOHN PAPI and JOHN J. PAPI,
LLC,

Plaintiffs

v.

TOWN OF GORHAM, TOWN OF
GORHAM TOWN COUNCIL,
TOWN OF GORHAM TOWN
CLERK, DAVID COLE,
RONALD SHEPARD, and
DANIEL JONES,

Defendants

Case No.: 2:16-cv-00560-JDL

ANSWER TO COMPLAINT

NOW COME the Defendants Town of Gorham, Town of Gorham Town Council, Town of Gorham Town Clerk, David Cole, Ronald Shepard, and Daniel Jones (hereinafter “Defendants”), by and through their undersigned counsel, and answer Plaintiffs’ Complaint as follows:

1. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.
2. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same. This Court lacks subject matter jurisdiction pursuant to the *Rooker-Feldman* Doctrine.
3. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

4. Defendants admit that Plaintiff John Papi was issued a citation on or about January 28, 2014. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph and, therefore, deny the same.

5. Defendants deny the allegations contained in this paragraph.

6. Defendants admit that the Town of Gorham is within this judicial district. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

PARTIES

7. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

8. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

9. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

10. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

11. Defendants admit that the Town of Gorham is within this judicial district. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

12. Defendants admit that David Cole is employed by the Town of Gorham as its Town Manager. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

13. Defendants lack sufficient information to admit or deny the allegations in

this paragraph and, therefore, deny the same.

14. Defendants admit that Daniel Jones is employed by the Town of Gorham as its Chief of Police. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

15. Defendants deny the allegations contained in this paragraph.

FACTS

16. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

17. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

18. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

19. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

20. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

21. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

22. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

23. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

24. Defendants lack sufficient information to admit or deny the allegations in

this paragraph and, therefore, deny the same.

25. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

26. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

27. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

28. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

29. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

30. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

31. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

32. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

33. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

34. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

35. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

36. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

37. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

38. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

39. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

40. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

41. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

42. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

43. Defendants deny the allegations contained in this paragraph.

44. Defendants deny the allegations contained in this paragraph.

45. Defendants deny the allegations contained in this paragraph.

46. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

47. Defendants deny the allegations contained in this paragraph.

48. Defendants deny the allegations contained in this paragraph.

49. Defendants deny the allegations contained in this paragraph.

50. Defendants deny the allegations contained in this paragraph.

51. Defendants deny the allegations contained in this paragraph.

52. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

53. Defendants deny the allegations contained in this paragraph.

COUNT I

54. Defendants repeat and reallege their responses to paragraphs 1 through 53 above.

55. Defendants deny the allegations contained in this paragraph.

56. Defendants deny the allegations contained in this paragraph.

57. Defendants deny the allegations contained in this paragraph.

58. Defendants deny the allegations contained in this paragraph.

59. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

60. Defendants deny the allegations contained in this paragraph.

COUNT II

61. Defendants repeat and reallege their responses to paragraphs 1 through 60 above.

62. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

63. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

64. Defendants deny the allegations contained in this paragraph.

65. Defendants deny the allegations contained in this paragraph.

66. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

67. Defendants deny the allegations contained in this paragraph.

COUNT III

68. Defendants repeat and reallege their responses to paragraphs 1 through 67 above.

69. Defendants deny the allegations contained in this paragraph.

70. Defendants deny the allegations contained in this paragraph.

71. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

72. Defendants deny the allegations contained in this paragraph.

COUNT IV

73. Defendants repeat and reallege their responses to paragraphs 1 through 72 above.

74. Defendants deny the allegations contained in this paragraph.

75. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

76. Defendants deny the allegations contained in this paragraph.

COUNT V

77. Defendants repeat and reallege their responses to paragraphs 1 through 76 above.

78. Defendants deny the allegations contained in this paragraph.

79. Defendants lack sufficient information to admit or deny the allegations in

this paragraph and, therefore, deny the same.

80. Defendants deny the allegations contained in this paragraph.

COUNT VI

81. Defendants repeat and reallege their responses to paragraphs 1 through 80 above.

82. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

83. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

84. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

85. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

86. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

87. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

88. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

89. Defendants admit that Section 6.1 of the Solid Waste, Flow Control and Hazardous Waste Ordinance states: “No Commercial or Residential Refuse Collector shall collect, recycle, or haul Solid Waste generated within the boundaries of the Town of Gorham without first obtaining an annual license.”

90. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

91. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

92. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

93. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

94. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

95. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

96. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

COUNT VII

97. Defendants repeat and reallege their responses to paragraphs 1 through 96 above.

98. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

99. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

100. Defendants deny the allegations in this paragraph.

101. Defendants deny the allegations in this paragraph.

102. Defendants lack sufficient information to admit or deny the allegations in this paragraph and, therefore, deny the same.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs' Complaint is barred by the doctrine of *res judicata*.
3. The Court is without subject-matter jurisdiction over Plaintiffs' claims.
4. Plaintiffs' claims are barred by their failure to exhaust administrative remedies.
5. Plaintiffs failed to comply with the Maine Tort Claims Act notice requirements.
6. Defendants are immune from liability pursuant to the Maine Tort Claims Act and/or Plaintiffs' recovery is limited in accordance with the Act.
7. Plaintiffs' claims are barred by the doctrines of equitable and/or promissory estoppel, waiver, including by express or implied agreement, and/or unclean hands.
8. Plaintiffs' claims are barred or limited by her own actions or inactions which contributed to their alleged damages.
9. Plaintiffs' damages, if any, were the result of intervening and superseding causes precluding any liability on the part of Defendants.

WHEREFORE, Defendants pray that Plaintiffs' Complaint be dismissed and that they be awarded attorneys' fees and costs incurred in defending against the same.

DATED at Portland, Maine this 17th day of January, 2017.

/s/ Devin W. Deane
Jonathan W. Brogan
Devin W. Deane
NORMAN, HANSON & DETROY, LLC
Two Canal Plaza
P.O. Box 4600
Portland, Maine 04112
P: (207) 774-7000 F: (207) 775-0806
jbrogan@nhdlaw.com
ddeane@nhdlaw.com
Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Devin W. Deane, hereby certify that on January 17, 2017, I caused true and correct copies of the foregoing ANSWER TO COMPLAINT to be served on all counsel of record via the Court's ECF system.

/s/ Devin W. Deane
Devin W. Deane
NORMAN, HANSON & DETROY, LLC
Two Canal Plaza
P.O. Box 4600
Portland, Maine 04112
P: (207) 774-7000 F: (207) 775-0806
ddeane@nhdlaw.com